



SJC: Hospital erred in holding mentally ill patient despite judge's order

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By Shira Schoenberg | [sschoenberg@repub.com](mailto:sschoenberg@repub.com)

BOSTON — The Supreme Judicial Court ruled Thursday that Pembroke Hospital should not have arranged for a mentally ill patient who had nowhere else to go to be confined against his will after a judge ordered the patient's release.

The decision stems from the dilemma posed when a hospital must discharge a patient but cannot find a safe place to release the person. The ruling could be relevant in similar future cases.

According to the SJC's decision in *Pembroke Hospital v. D.L.*, the patient had been held temporarily at Pembroke Hospital because he was mentally ill and had made suicidal statements. Under the state's civil commitment law, a person can be held against their will because of mental illness if a judge determines releasing them would pose an imminent likelihood of serious harm to the patient or someone else, and if there is no less restrictive means of avoiding that harm.

Pembroke Hospital petitioned a judge to extend D.L.'s confinement, alleging D.L. had been refusing food and medication, drinking only minimal fluids, and had been unresponsive to staff. A doctor worried that D.L. would die within two weeks without continued intervention.

The judge denied the petition and ordered that D.L. be discharged. However, hospital staff could not find a family member to release D.L. to.

According to court documents, D.L. previously had been living with his grandmother, but both his grandmother and his aunt refused to take him because they worried about his safety in the community. His father could not be reached. His psychiatrist said D.L. could not take care of himself. Hospital officials did not believe D.L. could be safely released to a shelter.

After the initial judge's ruling, Pembroke Hospital "discharged" D.L., but rather than letting him leave, the hospital transported him by ambulance to South Shore Hospital in Weymouth, where he was reevaluated, then returned to Pembroke Hospital on another civil commitment petition. The judge who heard that petition ordered him committed to the hospital for up to six months.

D.L.'s attorney argued that he was never discharged, counter to the first judge's order, so his continued confinement was illegal.

In a decision written by Justice Kimberly Budd, the SJC agreed with D.L. and wrote that the confinement was improper. The court wrote that a person cannot be considered discharged if their liberty is not restored.

Budd wrote that, under state law, a person can only be considered discharged "when that individual is set at liberty from involuntary restraint." That does not include being released from one hospital's care but involuntarily transported to another hospital.

"Although we have no reason to believe Pembroke acted in bad faith — to the contrary, the staff seem to have moved quickly out of genuine concern for D.L.'s well-being — we nonetheless cannot conclude that Pembroke was in compliance with the strict requirements of (state law)," Budd wrote.

Once the District Court judge ruled that D.L. was not at imminent risk of serious harm, Budd wrote, the fact that D.L. had no place to live was not proper grounds for the hospital to involuntarily detain him.